



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,527	11/21/2003	John Jerome Huber	JHA-001	8422

7590 08/01/2005
John J. Huber
10910 S. Quebec Pl.
Tulsa, OK 74137

EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
----------	--------------

3611

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,527	Applicant(s) HUBER, JOHN JEROME	
	Examiner Gary C. Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/21/03</u> . | 6) <input type="checkbox"/> Other: _____ |

4

DETAILED ACTION

Election/Restrictions

1. Claims 2, 3, 6 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made with traverse in the reply filed on June 8, 2005.
2. Applicant's election with traverse of Species I in the reply filed on June 8, 2005 is acknowledged. No ground(s) for traversal were given. The requirement is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sound device (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

Art Unit: 3611

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maynes (4,280,291) in view of Thater (4,831,956).

Maynes discloses a score displaying device comprising a front face 12 and a back face 14 coupled together; means 24, 26, 28, 30 for supporting a plurality of scoring elements 16, 18, 20, 22; means for displaying the scoring elements on the front face and the back face (cf. Figs. 1 and 2); and means for positioning the scoring elements into a plurality of scoring symbol displays (cf. Figs. 1 and 2). However, the device disclosed by Maynes is rigid, rather than being flexible. Thater teaches that it was known in the art to make a flexible scoring device that can be rolled-up for compact storage. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the scoring device disclosed by Maynes flexible, as taught by Thater, in order to make the device capable of being rolled-up for compact storage. Thater further discloses loops 18 for attaching the device to a variety of support structures. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

Art Unit: 3611

provide the device disclosed by Maynes with loops, as taught by Thater, in order to be able to attach the device to a variety of support structures.

Regarding claim 5, a team mascot toy could be perched on the top of the display.

Therefore, the top of the display constitutes means for displaying a team mascot toy.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maynes (4,280,291) in view of Thater (4,831,956), as applied to claim 1, above, and further in view of Matherne et al. (5,418,517).

Maynes, as modified, discloses the invention substantially as claimed, as set forth above. However, there is no sound device. Matherne et al. teaches that it was known in the art to attach a sound device to a score displaying device that sounds whenever a score is made, in order to give an audible indication of a score. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the score displaying device disclosed by Maynes, as modified, with a sound device, as taught by Matherne et al., in order to give an audible indication of a score.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maynes (4,280,291) in view of Thater (4,831,956), as applied to claim 1, above, and further in view of Gold (5,016,372).

Maynes, as modified, discloses the invention substantially as claimed, as set forth above. However, there is no linear passageway or stiffening means. Gold teaches that it was known in the art to provide a flexible display with a linear passageway **18** and a stiffening member **20**, in order to ensure readability of the display. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the display disclosed by Maynes, as

Art Unit: 3611

modified by Thater, with a linear passageway and a stiffening means, as taught by Gold, in order to ensure readability of the display.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch